

RECORDATION NO. 11046-D
FILED

JAN 2 '98

3-44PM

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567

312-558-1000

WRITER'S DIRECT LINE
(312) 750-8655

TELECOPIER
312-750-8600

PARK AVENUE TOWER
65 EAST 55TH STREET
NEW YORK, NEW YORK 10022-3219
212-421-5555

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
732-563-2700

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-4103
202-296-8600

SUSAN G. LICHTENFELD

December 30, 1997

VIA OVERNIGHT COURIER

Vernon A. Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Attention: Janice Fort, Room 2311

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11301(a) are two original executed copies and three photostatic copies of an Assignment and Assumption Agreement, dated as of December 22, 1997 ("Assignment"), relating to the Lease of Railroad Equipment dated as of October 26, 1979, between The Connecticut Bank and Trust Company, as Trustee, Lessor, and Public Service Company of Colorado, Lessee, duly recorded and filed with the Interstate Commerce Commission (predecessor to the Surface Transportation Board) pursuant to 49 U.S.C. §11303 on November 13, 1979 under Recordation Number 11046-B, which Assignment is a secondary document as defined in the Commission's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Assignor: Citicorp Leasing, Inc.
450 Mamaroneck Avenue
Harrison, New York 10528

Assignee: DJJ Transportation Services, Inc.
300 Pike Street
Cincinnati, Ohio 45202

RECEIVED
SURFACE TRANSPORTATION
BOARD
JAN 2 3 44 PM '98

Vernon A. Williams
December 30, 1997
Page 2

A description of the railroad equipment and the Operative Documents covered by the enclosed document is set forth in the Assignment.

Also enclosed is a check in the amount of \$24.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return one stamped original and three stamped photostatic copies of the enclosed document and the stamped photostatic copy of this letter to Susan G. Lichtenfeld at Ross & Hardies, 150 North Michigan Avenue, Suite 2500, Chicago, Illinois 60601.

Following is a short summary of the enclosed document and primary document to which it relates:

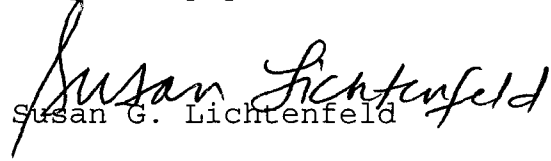
Document to be Recorded

Assignment and Assumption Agreement dated as of December 22, 1997, between Citicorp Leasing, Inc., assignor, and DJJ Transportation Services, Inc., assignee.

Primary Document to Which it Relates

Lease of Railroad Equipment, dated as of October 26, 1979, between The Connecticut Bank and Trust Company, as Trustee, as Lessor, and Public Service Company of Colorado, as Lessee, recorded and filed with the Interstate Commerce Commission (predecessor to the Surface Transportation Board) pursuant to 49 U.S.C. §11303 under Recordation Number 11046-B.

Very truly yours,


Susan G. Lichtenfeld

SGL/vgc
Enclosures

cc: w/o encl.
Robert W. Kleinman

SURFACE TRANSPORTATION BOARD
WASHINGTON, D. C. 20423-0001

OFFICE OF THE SECRETARY

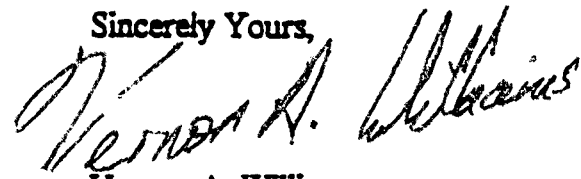
Susan G. Lichtenfeld
Ross & Hardies
150 North Michigan Avenue
Chicago, Illinois 60601-7567

DATE: 1/2/98

Dear Madam:

The enclosed document(s) was recorded pursuant to the provisions of 49 U.S.C. 11301
and 49 CFR 1177.3 (c), on 1/2/98 at 3:44PM, and
assigned recordation number(s). 11046-D.

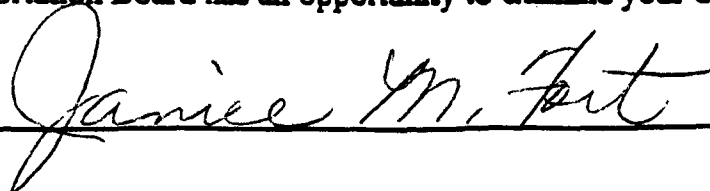
Sincerely Yours,


Vernon A. Williams
Secretary

Enclosure(s)

\$ 24.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid. In the event of an error or any questions concerning this fee, you will receive a notification after the Surface Transportation Board has an opportunity to examine your document.

Signature



JAN 2 '98

3-44PM

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Agreement"), dated as of December 22, 1997, is between Citicorp Leasing, Inc. ("Assignor"), a Delaware corporation, and DJJ Transportation Services, Inc. ("Assignee"), a Delaware corporation.

RECITAL

Assignor and Assignee have entered into a Purchase Agreement dated as of December 1, 1997 (the "Purchase Agreement"). Pursuant to the Purchase Agreement, Assignor wishes to sell, assign, transfer, and convey to Assignee, and Assignee wishes to purchase, receive and accept, all of Assignor's right, title and interest in, to and under the operative documents listed on Appendix 1 (the "Operative Documents"), relating to the railcar equipment described in Appendix 2 and all of Assignor's right, title and interest therein (collectively, the "Owner Interests").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Assignment of Owner Interests. Assignor hereby sells, assigns, transfers and conveys to Assignee, as of the date hereof, all its right, title and interest in, to and under the Owner Interests; and Assignee hereby accepts and receives all such right, title and interest in, to and under the Owner Interests; subject, however, to the Purchase Agreement and excluding any claim, cause of action, liability or obligation of any nature or description or other right to payment accruing, arising or relating to any period on or prior to the date hereof or payable by reason of any act, event or omission occurring or existing on or prior to the date hereof, whether known or unknown, contingent or otherwise, as of the date hereof, to have and to hold the same unto Assignee, its successors and assigns, forever.

Section 2. Assumption of Liabilities. Assignee assumes, with respect to the periods after the date hereof, all of the duties and obligations of Assignor hereafter accruing or arising incident to the Operative Documents. Assignee confirms, with respect to the periods after the date hereof, that as of the date hereof it shall be deemed a party to those agreements set forth in Appendix 1 to which Assignor is a party, and Assignee agrees to be bound by all the terms of, and to undertake all such obligations of, Assignor contained therein arising after the date hereof.

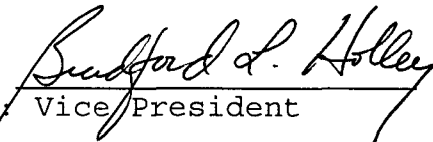
Section 3. Exception. Notwithstanding the foregoing, Assignor shall be entitled, to the extent set forth in the Purchase Agreement, to pursue claims incident to its interests in the Operative Documents, and all its rights and remedies related to such claims, for (a) payments of indemnity now or hereafter due under the agreements set forth in Appendix 1 from any obligor thereunder, and/or (b) insurance payments or proceeds, provided, however, that any obligor's liability for such claims shall not exceed the liability it would have incurred if the assignment had not been made.

Section 4. Representation. Assignee hereby represents and warrants that on the date hereof (i) it is a domestic corporation, (ii) it is the wholly owned subsidiary of The David J. Joseph Company, a Delaware corporation (the "Parent"), and (iii) the Parent has net worth of not less than \$50,000,000.

Section 5. Miscellaneous. Each party to this Agreement shall execute and deliver such instruments, documents and other written information and take such other actions as the other party may reasonably require in order to carry out the intent of this Agreement. This Agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. This Agreement shall be construed in accordance with the laws of New York without regard to its conflict of laws doctrine.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

CITICORP LEASING, INC.

By: 
Its: Vice President

DJJ TRANSPORTATION SERVICES, INC.

By: _____
Its: _____

Section 3. Exception. Notwithstanding the foregoing, Assignor shall be entitled, to the extent set forth in the Purchase Agreement, to pursue claims incident to its interests in the Operative Documents, and all its rights and remedies related to such claims, for (a) payments of indemnity now or hereafter due under the agreements set forth in Appendix 1 from any obligor thereunder, and/or (b) insurance payments or proceeds, provided, however, that any obligor's liability for such claims shall not exceed the liability it would have incurred if the assignment had not been made.

Section 4. Representation. Assignee hereby represents and warrants that on the date hereof (i) it is a domestic corporation, (ii) it is the wholly owned subsidiary of The David J. Joseph Company, a Delaware corporation (the "Parent"), and (iii) the Parent has net worth of not less than \$50,000,000.

Section 5. Miscellaneous. Each party to this Agreement shall execute and deliver such instruments, documents and other written information and take such other actions as the other party may reasonably require in order to carry out the intent of this Agreement. This Agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. This Agreement shall be construed in accordance with the laws of New York without regard to its conflict of laws doctrine.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

CITICORP LEASING, INC.

By: _____
Its: Vice President

DJJ TRANSPORTATION SERVICES, INC.

By: James H. Scott
Its: VICE PRESIDENT

STATE OF NEW YORK)
COUNTY OF ~~NEW YORK~~ ^{Westchester}) SS:

On this 19th day of December, 1997, before me personally appeared Birchford L. Halley, to me personally known, who being duly sworn, says that he is a Vice President of CITICORP LEASING, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARY SEAL]

DONALD E. HOYT
Notary Public, State of New York
No. 02H05044718
Qualified in Westchester County
Commission Expires June 5, 1999

My Commission Expires:

STATE OF CINCINNATI)
COUNTY OF HAMILTON) SS:

On this ____ day of December, 1997, before me personally appeared _____, to me personally known, who being duly sworn, says that he is a _____ of DJJ TRANSPORTATION SERVICES, INC. that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARY SEAL]

My Commission Expires:

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) SS:

On this ____ day of December, 1997, before me personally appeared _____, to me personally known, who being duly sworn, says that he is a Vice President of CITICORP LEASING, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARY SEAL]

My Commission Expires:

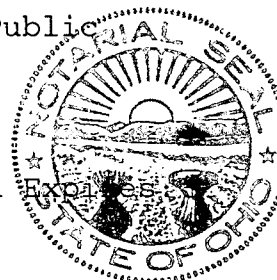
STATE OF CINCINNATI)
)
COUNTY OF HAMILTON) SS:

On this 19th day of December, 1997, before me personally appeared JAMES H. GOETZ, to me personally known, who being duly sworn, says that he is a VICE PRESIDENT of DJJ TRANSPORTATION SERVICES, INC. that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARY SEAL]

My Commission Expires



Shelley B. Bacon
SHELLEY B. BACON
Notary Public, State of Ohio
My Commission Expires July 22, 2002

APPENDIX 1
TO
ASSIGNMENT AND ASSUMPTION AGREEMENT

OPERATIVE DOCUMENTS

1. Participation Agreement dated as of October 26, 1979 among Public Service Company of Colorado ("Lessee"); Security Pacific Commercial Leasing Inc. ("Owner"); The Connecticut Bank and Trust Company ("Trustee"); the parties named therein as Investors, and Mercantile-Safe Deposit and Trust Company ("Agent").

2. Conditional Sale Agreement dated as of October 26, 1979 between Trustee and Thrall Car Manufacturing Company ("Builder").

3. Lease of Railroad Equipment dated as of October 26, 1979 between Lessee and Trustee.

4. Assignment of Lease and Agreement dated as of October 26, 1979 between Trustee and Agent, and Consent of the Lessee.

5. Agreement and Assignment dated as of October 26, 1979 between Thrall Car Manufacturing Company and Agent, and Acknowledgement and Notice of Assignment from the Trustee.

6. Trust Agreement dated as of October 26, 1979 between Owner and Trustee.

7. Indemnity Agreement dated as of October 26, 1979 between Owner and Lessee.

8. Bills of Sale dated November 13, 1979 and January 3, 1980 and Acknowledgements of Delivery dated November 11, 1979, November 12, 1979, November 16, 1979, November 19, 1979, December 17, 1979, December 20, 1979 and December 27, 1979.

9. Invoices reflecting Purchase Price.

10. Opinion dated November 14, 1979 of Carroll, Hartigan & Hillery, Ltd.

11. Photostatic copy of Purchase Agreement dated as of December 15, 1992 between Security Pacific Equipment Leasing, Inc. and Citicorp Leasing, Inc. (as it relates solely to the equipment lease transaction described in Exhibit B-4 thereto).

12. Photostatic copy of Officer's Certificate of Security Pacific Equipment Leasing, Inc. dated December 24, 1992.

13. Photostatic copy of Certificate of Incumbency of Security Pacific Equipment Leasing, Inc. dated December 24, 1992.

14. Photostatic copy of Opinion of Assistant General Counsel of Bank of America National Trust and Savings Association, dated December 24, 1992.

15. Photostatic copy of Officer's Certificate of Citicorp Leasing, Inc., dated December 24, 1992.

16. Photostatic copy of Incumbency Certificate of Citicorp Leasing, Inc., dated December 24, 1992.

17. Photostatic copy of Opinion of Ross & Hardies, dated December 24, 1992.

18. Photostatic copy of Assignment and Assumption Agreement dated as of December 24, 1992 between Security Pacific Equipment Leasing, Inc. and Citicorp Leasing, Inc.

19. Photostatic copy of Debt Confirmation Request from the Agent, dated December 10, 1992.

20. Photostatic copy of Lease Confirmation Request from the Lessee, dated December 15, 1992.

21. Photostatic copy of Acknowledgment and Consent, dated November 2, 1992, from Citicorp Leasing, Inc. and Security Pacific Equipment Leasing, Inc. to State Street Bank and Trust Company of Connecticut, N.A. (successor to The Connecticut Bank and Trust Company), as Trustee, the Agent, the Lessee and the Investors identified therein.

22. Photostatic copy of Notice of Assignment from Citicorp Leasing, Inc. and Security Pacific Leasing, Inc., dated December 29, 1992.

23. Photostatic copy of letter dated September 27, 1994 from R.C. Kelly, Senior Vice President Finance, Treasurer and Chief Financial Officer of Lessee extending the Lease for five years.

24. Trust Agreement Amendment No. 1 dated as of December 15, 1997 between Citicorp Leasing, Inc. and State Street Bank and Trust Company of Connecticut, N.A.

APPENDIX 2
To
ASSIGNMENT AND ASSUMPTION AGREEMENT

RAILCAR EQUIPMENT

<u>QUANTITY</u>	<u>NUMBER</u>	<u>DESCRIPTION</u>
249 Cars (after casualties of 5 Units)	PSCX 489-PSCX 562 PSCX 564-PSCX 571 PSCX 573-PSCX 636 PSCX 638-PSCX 728 PSCX 730-PSCX 739 PSCX 741-PSCX 742 (all inclusive)	Highside, single- rotary dump gondola coal cars